

**MILTON TOWN COUNCIL  
FEBRUARY 1, 2016, 6:30PM  
MILTON LIBRARY, 121 UNION STREET**

The meeting was recorded; the below minutes are a summary of the agenda items.

- 1. Call to order (6:30pm) by Mayor Jones**
- 2. Moment of silence was observed (6:30pm)**
- 3. Pledge of Allegiance to the Flag (6:30pm)**
- 4. Roll Call – Mayor Jones: (6:30pm)**

Ted Kanakos – Present  
Stell Parker-Selby – Present  
Michael Cote – Absent  
James ‘Sam’ Garde – Present  
Emory West – Present  
Kevin Kelly – Present  
Marion Jones - Present

**5. Public Participation – (6:31pm)**

*Nancy Trask* – (101 Mill Pond Ave.) Representing Milton Garden Club. Overview of what Garden Club accomplished last year. Read a letter on behalf of the Garden Club stating they have come to a decision and they will not maintain the planters of the gardens in town and will not host a garden tour this year. Feel no other choice.

Comments by: Councilman Cote, Vice Mayor Parker-Selby, Councilman Kelly, Councilman Garde, Mayor Jones, Councilman West, and Councilman Kanakos.

*Dom Molina* – (330 Behringer Ave) (6:44pm) – Spoke last month about National Screen, Dryzone, Dr. Energy at the intersection Hazzard, Atlantic and Behringer Ave., looking for a report on the actions that have transpired. It’s a violation of the R-1 code. Not getting a response to emails he has sent.

*Seth Thompson* – Received correspondence from an attorney for owners of tax parcel 154 and I notified the attorney that the storage is a problem. I asked today when they planned on correcting it. In terms of the use as a private parking lot, the Town Code recognizes that as a use and I understand in your point that it would not be permitted in correct R-1. The fact is everything we have reviewed and there’s been correspondence with the Project Coordinator, has that parcel being used as a private parking lot predating the Town Zoning Ordinance in 1987. It hasn’t ceased for a year, it has been a private parking lot based on everything we’ve seen based on the correspondence of the solicitor at that time in 1992 corresponding about that business. Based on Section 220-71 Pre-existing non-conforming uses of lots, I am of the opinion that it is grandfathered private parking lot.

*Dom Molina* – Mr. Thompson I have previous correspondence from you from 2012 that says completely different information. I would consider your response before you comment. I don’t know why we are discussing it, it was addressed four (4) years ago and nothing has been resolved.

*Seth Thompson* – Drafted a memorandum for the Project Coordinator to review, he can have a difference of opinion but I have given him my opinion. He can adopt that opinion or change it. You can appeal if you don’t agree with his opinion. There are two elements here, number one

(1) the private use of the parking lot, and obviously if there is information out there I don't have, I didn't live here in 1987. For instance, if it stopped being used for a year then the pre-existing Non-Conforming use goes away at that point.

*Dom Molina* – I understand the procedure, I don't think that when the hearing was held in 86 there was any approval of the lot. When it went from the manufacturing company to National Screen. Also, some conditional use issues but not going to address tonight.

*Seth Thompson* – Just want to understand your point, we are talking about parcel ending in 154.

*Dom Molina* – The lot adjacent to me.

*Seth Thompson* – That is correct, that's been a private parking lot, or do you believe that hasn't been a private parking lot since 1987?

*Dom Molina* – The issue is that when the Sussex Planning Commission granted a conditional use it was for the building across the street and not that lot.

*Seth Thompson* – That is a separate parcel.

*Dom Molina* – The lot was not part of the hearing.

*Seth Thompson* – Do you think that hasn't been used as a private parking lot?

*Dom Molina* – I am not saying that. I am not debating that, I am saying there was no approval.

*Seth Thompson* – It is considered grandfathered.

*Dom Molina* – I will bring the letter you sent.

*Seth Thompson* – Believe you are talking about the parcel across the street when the building is.

*James Welu* – Just want to add, the parcel where the building is, has no pre-existing use of parking prior to the Town taking over the zoning.

*Seth Thompson* – Mr. Welu we are talking about the parcel across the street.

*James Welu* – We should be concerned where the building is as well, it's in violation too. In 2002 there was no parking on that lot, there was a building called a sewing factory. There was no parking or use of that parcel, from the building all the way to Hazzard Street. Everything that happened on that parcel happened after 2002.

*Seth Thompson* – I don't want to conflate the two parcels because we are only talking about the one.

*James Welu* – Then I will bring action against the other one.

*Katherine Greg* (6:53pm) (326 Union Street) – I am a member of the Garden Club but I am speaking for myself. For thirteen (13) years I have worked on the gardens and planters downtown. Never have I really been sorry for that because the response that was given to me each I was working was so positive. Upset over all the criticism over the tree fences, which were put up with Mayor and Council blessing at that time. And now they are ugly and a nuisance and to read in the Comprehensive Plan that it is being recommended that the tree fences and planter boxes should be removed along Union Street and Federal Street be taken away because of all the people crowding around, walking, chatting and window shopping. Received a phone call indicating that someone from council stated that the Garden Club is acting childish.

*Seth Thompson* – Couple quick points, Council hasn't seen a draft of the Comprehensive Plan yet but there will be public hearings.

*Mayor Jones* – I stand by what I said earlier and I believe there are other things to discuss besides just the tree fences.

*Katherine Greg* – Tree fences are a big obstacle for us. I will say that the Mayor at that time and three (3) people who were on the council at that time have all said, 'How can there be any claim against the Garden Club when the tree fences belong to the Town?'

*Seth Thompson* – The Town received a FOIA request and it had to respond and it did so according to procedure and according to State Law. Unfortunately, the minutes are not very clear. Unlike with the clock, where there is kind of an established documentary trail on how it was acquired and who owns it. That isn't the case of what occurred in 2008.

*Katherine Greg* – We never did that before the clock.

*Leah Betts* (113 Magnolia Street) – (7:05pm) I want to thank Mr. Wingo and the maintenance department for all their hard work they put in during the storm. They were very cooperative and helpful to me, and I know they were to the rest of the town. And it saddens me to hear all this about the Garden Club. Cannot imagine the Town and the people in the town can't help them with the situation they are in. Would like to thank each and every one of them for all their hard work.

*Steve Crawford* – (216 Ridge Road) – Update on the mural project. While we haven't quite reached our funding goal, I think I can say without reservation that as soon as we get some decent weather, (about a week of 40+ degrees), the mural will be able to be painted.

*Jeff Daily* – (211 Gristmill Drive) (7:07pm) – I have taken the opportunity to sing the praises of our Garden Club, both literally and figuratively. When something ugly creeps into a small town, there is no rule that says the elected officials can't stand up, step forward and speak on their own behalf. Never denied insurance because we had something folks could trip over. Would like update on search for Police Chief and Town Manager. Question about Cannery Village and sidewalks on unfinished lots.

*Seth Thompson* – P & Z request is not for the delay in putting sidewalks in, it's for removing sidewalks that are on the authorized plan currently that they don't intend to build any more. Town engineer has almost finished his drawings. There will be a delay on the other sidewalks, that was already agreed upon. Town provided a supplemental punch lists and the developer has agreed with that supplemental punch list.

*Bo Gooch* – (Retired Chief of the City of Lewes) I understand there were 14 applicants for Chief of Police and I want to know how many did we interview?

*Seth Thompson* – There were 8 of the 14 interviewed.

*Bo Gooch* – Why weren't all 14 interviewed? They were all qualified from the Police Chief's Council, so why weren't all 14 interviewed.

*Seth Thompson* – Council approved the process, where the Delaware Police Chief's Council would do the initial review and select which of the applicants would be given an interview. The Delaware Police Chief's Council came back with their 8. They weren't ranked in any order, but they were the top 8 applicants. Council didn't give them a number in terms of a cut off, the Delaware Police Chief's council selected the number of applicants as well as the applicants that would be given interviews.

*Jim Welu* – (30263 E Mill Run) - Congratulate Greg and his crew, they had a tough, long hard weekend. I know not everybody was completely happy. I have no complaint and I don't know if a citation was done, but the between the parking lot and the Milton Theater was solid ice at 12 noon Saturday, a week after the snow storm. That is a well traveled area. I know a lot of work has gone into this Chief of Police selection. A couple of things that kind of surprised me that I think the town should be aware of.... I know a lot of work must have gone into the job description for the Chief of Police and I was given to understand that job description was not provided to the Delaware Police Chief's Council.

*Seth Thompson* – Mr. Welu it is my understanding that it was.

*Jim Welu* – It was my understanding it wasn't but you could probably find out better than I can. Second thing I found surprising is that this big group was given task of reviewing the applications, but only 2-3 members actually reviewed the applications. I find it a little bit disturbing when we thought we had this group, with all their experience reviewing these resumes. I have some more comments to make but I think I will leave it at that. I want to get back to Dry Zone, it seems to me I heard Dam say there was still problems with storage of material on the lot.

*Seth Thompson* – I don't think he said material.

*Jim Welu* – I presume the only storage is on the lot where the building is. And that's going to be in violation of the county approval because it was not grandfathered in, in 1986.

*Seth Thompson* – We agree on the point there shouldn't be outside storage of materials on either lot.

*Jim Welu* – Or parking.

*Seth Thompson* – And I think that's where we part ways.

*Jim Welu* – There was no use of parking on the lot that I am concerned with more than Dam is. The one right across from my property. I know for a fact when I bought that lot there was a building there that came out to the sidewalk. It was a sewing factory that was eventually destroyed.

*Seth Thompson* – Mr. Molina is right there were extensive discussions back 4 years ago, I think, with regard to the building as oppose to the vacant lot across the street, where in my mind it is used as a private parking lot. Your free to file a FOIA request.

*Jim Welu* – I don't need to file a FOIA request. I know the facts. I was there in 2002, I know the building that was there.

*Seth Thompson* – I guess my point is, if you want to see where the towns conclusion derived from.

*Jim Welu* – I don't know what conclusions you have arrived to.

*Seth Thompson* – We are talking about the parking lot, tonight right?

*Jim Welu* – There's two parking lots. They park on both parcels.

*Seth Thompson* – For ease of reference we are just talking about parcel 154, which is the unimproved parcel.

*Jim Welu* – What was the towns conclusion on that.

*Seth Thompson* – In my mind it's a private parking lot, it's been a private parking lot, it's a grandfathered private parking lot. There shouldn't be storage on it. Nothing other than parking for the adjacent business.

*Jim Welu* – You have evidence there was parking there in 1986?

*Seth Thompson* – Yeas, you can go through the file.

*Joyce Hooper (308 Colver Street) (7:20pm)* - Concerned there isn't enough diversity with town employees. Personnel Committee should be checking on employees and making sure doing what they should be.

*Vice Mayor Parker-Selby* – Supporter of diversity and it is not being over looked. Trained in HR and that's why she sits on the personnel committee.

*Mayor Jones* – Update on the Police Chief hiring process.

*Seth Thompson* - Completed the process on Police Chief hiring.

**6. Presentation from Economic Development Committee relating to Seismic Testing (7:31pm)**

*Bob Howard* (217 Chandler Street) – Chairman of EDC. Handouts passed out. Last month EDC accepted recommendation from Sustainability Sub-Committee to make a recommendation to Councilman they make a resolution opposing Seismic testing off the coast.

Presentation from Matt Hyne on Seismic testing and current proposal in government for plan on testing. Concerns about spills, leasing program and negative impact of seismic surveys and the impact environmentally and with wildlife.

Discussion on harm, amount of oil possibly available, lease, length and whether can vote.

*Seth Thompson* – Can draft a resolution.

*Matt Hyne* explained deadlines and time sensitivity of the process and that it is a two-part process. Requesting two resolutions be passed. One against seismic testing and the other opposing leasing.

*Mayor Jones* opened floor up to public comments and questions.

**7. Requests for Removal of Items from the Consent Agenda (7:55pm)** – Mayor Jones asked that Council leave appointments and allow her to read the appointments aloud. Council was ok. Councilman Garde did not have any removal but wanted to highlight the welcoming of Christopher Parson and share the kudos given by others to the Public Works Department. No requests made to remove any items from the consent agenda.

**8. Approval of the Consent Agenda: (7:57pm)** Motion to approve Consent Agenda by Councilman Cote. Second by Councilman Garde. No further discussion. All in favor. None opposed.

**a. Written Committee Reports**

**b. Written Department Reports: Administrative, Code Enforcement, Project Coordinator, Police, and Public Works**

**c. Finance Report, Statement of Revenues and Expenditures**

**d. Appointment to Planning and Zoning**

**e. Appointment to Board of Adjustments**

**f. Appointment to Water Committee**

**g. Appointment to Streets and Sidewalks Committee**

**9. Additions or Corrections to the Agenda (7:57pm)** - Councilman Garde would like to table 12a, since Land Acquisition Committee has met and concluded a recommendation but have not written it and document has not been vetted and should be ready for the next meeting.

**10. Agenda Approval (7:58pm)** – Councilman Garde made a motion to remove item 12a. Second by Councilman West. No further request to remove or discussion. All in favor. None opposed. Motion to approve the amended agenda by Councilman Garde. Second by Councilman Kanakos. All in favor. None Opposed,

**11. Discussion and possible vote on items removed from the Consent Agenda**  
No discussion on items removed.

**12. Old Business – Discussion and possible vote on the following items: (7:59pm)**

- a. **Resolution 2015-008 Appointing Members to a Land Acquisitions Committee of the Town and Requesting Recommendations on Potential Sites for Future Water Infrastructure - REMOVED**
- b. **Resolution 2015-018 to Refer Ordinance 2015-011 to the Streets and Sidewalks Committee (Ordinance 2015-011 to Designate a No Parking Area along Chandler Street) (8:00pm)**

*Mayor Jones* - Resolution is to add this portion of Chandler Street to no parking areas. This did not come back to council with recommendations. Mr. Thompson, Mrs. Rogers what action are you looking for from Council at this time?

*Seth Thompson* – Town Code requires that certain things be designated to go to a committee or commission for some sort of advisory report. Now there is usually a deadline associated with that so that something can't kind of sit in a committee or at the commission level and hamstring council. This isn't something that was required to go to a committee, however, I do think it's good for the purposes of transparency and a deliberated process. You guys do this a lot, where you assign something to committee to receive a recommendation. The question here is, if the committee hasn't been able to get together to make a recommendation, does council want to go ahead and consider the resolution without having received a committee recommendation.

*Councilman Kanakos* – Who originated this? Wasn't it Streets and Sidewalks and their recommendation?

*Councilman Garde* – It wasn't Streets and Sidewalks; my recollection is that it was a citizen who had an issue making a right-hand turn from going north on Union and turning right into there with cars parked for an activity. My recollection is that we, the council, did send to Streets and Sidewalks with a deadline. So, we are free to undertake this on our own or table this again and wait for a response from Streets and Sidewalks.

*Councilman Kelly* – Has there been any opportunity for public participation especially for those living on Chandler Street.

*Seth Thompson* – My thought process would be if the council is no longer looking for a recommendation, would be to put it on the agenda for the 15<sup>th</sup> as a public hearing. So that those people have the opportunity to directly comment.

*Mayor Jones* – I think the opportunity would have been presented at the Streets and Sidewalks Committee.

*Councilman Kelly* – But since that didn't happen, we don't know that the opportunity has been made available.

Motion by Councilman Kelly to Ordinance 2015-011 bring back on the February 15<sup>th</sup> meeting in order to open it up for public comment. Second by Councilman Garde. Councilman Garde comment that just in general not in favor of bypassing our normal procedures and the normal input that we lean on from the various commission and committees to generate a level of expertise we may or may not have here. Will just say I am uncomfortable.

*Mayor Jones* – Mr. Wingo, what was the difficulty in having the committee hear this issue.

*Mr. Wingo* – For the last two months didn't have quorum for the meetings so could not discuss.

*Councilman Garde* – Is there a meeting scheduled in February?

*Mr. Wingo* – Yes there is.

*Councilman Garde* – Is it prior to our next council meeting.

*Mr. Wingo* - Yes, it is.

*Councilman Kelly* – Is there a mechanism by which council knows if committees are not meeting to according to schedules, for reasons like absence of quorum.

*Seth Thompson* – Since committee not meeting would not have written report, but could be relayed by whoever is the liaison on the town staff.

*Councilman Garde* – I would think that most committees have a member of council on them. Can task the council member or town staff member with reporting when a schedule meeting did not have quorum.

No further discussion. All in favor. None opposed.

**c. Resolution 2015-019 to Request a Recommendation from the Streets and Sidewalks Committee Relating to the Wrought Iron Tree-Well Borders, currently installed downtown**

*Mayor Jones* – I would suspect this will possibly be referred to Streets and Sidewalks, even if the motion includes discussing it further on another date before council.

Motion by Councilman West to refer this to the open agenda on February 15<sup>th</sup> for public comment as well as referring it back to Streets and Sidewalks for their recommendation. Second by Councilman West. All in favor. None opposed.

**13. New Business – Discussion and possible vote on the following items: (8:26pm)**

**a. Recommendation from the Economic Development Committee on Seismic Testing**

Motion by Councilman West that Town Solicitor or Town Hall write a resolution to be presented on February 15, 2016.

*Councilman Kelly* – Problem with treating this the same as parking on Chandler Street. There is no time restraint for Chandler Street but there is one on Seismic Testing.

*Mayor Jones* – I don't see EDC coming back on the 15<sup>th</sup> with additional information. The idea is that Milton get on board with opposing this, if that is the way the vote goes. Just to be sure Councilman Kanakos just wants to bring this back to committee level.

*Councilman West* – Can we do the same thing as the two that are going to the Streets and Sidewalks Committee, and have an open discussion on the 15<sup>th</sup> before we vote.

*Seth Thompson* – My understanding of the motion, which I don't think it has been seconded, is that you want a draft of the resolution and have a period for public comment at that point too.

*Councilman West* – Revise motion to include public comment period.

*Bob Howard* – Will put discussion of Seismic testing on the EDC agenda. Can be here on the 15<sup>th</sup> to give any new information, if any, for the February 11<sup>th</sup> meeting.

Second by Vice-Mayor Parker-Selby. No further discussion. All in favor. None opposed.

**b. Resolution 2016-001 Designating Duties of the Office of Town Manager**

*Mayor Jones* – *Mr. Thompson, I believe this is just a continuation.*

*Seth Thompson* – It is. I believe the last one was for 6 months, maybe a year.

*Mayor Jones* – It was a year.

*Seth Thompson* – Rather than putting a timeframe we are describing a timeframe, this is designating Mrs. Rogers, the Town Clerk, to perform the duties and powers of the Town Manager until one is appointed or further action by the Town Council.

Motion by Councilman West to adopt Resolution 2016-001. Second by Vice-Mayor Parker-Selby. All in favor. None Opposed.

**14. Executive Session: (8:23pm)** Motion made by Councilman West to enter executive session, second by Vice-Mayor Parker-Selby. All in favor. None opposed.

- a. Strategy sessions, involving legal advice or opinion from an attorney-at-law, with respect to collective bargaining or pending or potential litigation, when an open meeting would have an adverse effect on the bargaining or litigation position of the public body
- b. Discussion of the content of documents, excluded from the definition of "public record" in § 10002 of this title where such discussion would disclose the contents of such documents
- c. Personnel matters in which the names, competency and abilities of individual employees or students are discussed

**15. Discussion and possible vote on Executive Session items – (9:535pm)** Motion by Councilman Garde to return to regular session. Second by Councilman West. All in favor. None opposed.  
No items voted on.

**16. Adjournment: (9:53pm)** Motion by Councilman Cote to adjourn. Second by Councilman West. All in favor. None opposed.